

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 797 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

RAMANBHAI DHULABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR CB DASTOOR for Petitioner

MR AJ DESAI, APP for Respondent No. 1

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 23/09/1999

ORAL JUDGEMENT

Petitioner is the original complainant who has submitted an application vide Annexure-B to P.S.I., Pethapur Police Station, Pethapur, Gandhinagar on 14-12-1998. Thereafter, he filed one complaint being Criminal Case No.250 of 1999 before the Judicial Magistrate (First Class), Gandhinagar. After going through the same and after hearing learned advocate appearing for the complainant, learned Judicial

Magistrate (First Class) passed an order on the said Criminal Case on 2-8-1999 rejecting the said complaint. It was stated in the said order that civil suits are pending between the parties and interim order to that effect was also passed by the civil Court. It is against the said order present Special Criminal Application is filed by the petitioner stating that the order passed by the learned Magistrate (First Class) is illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India. It was prayed that the said Criminal Case may be restored to file of learned Magistrate (First Class), Gandhinagar.

2. Heard learned counsel for the petitioner at length and gone through the application Annexure-B submitted by the present petitioner before the Pethapur Police Station as well as complaint being Criminal Case No.250 of 1999. Also gone through the order passed by the Court below on said complaint. According to the petitioner when independent criminal offence has been established, Court below ought to have issued process. Facts remain that civil disputes are there between the parties and for which, civil suits are also pending and interim order was also passed by the Civil Court. It appears that present complaint has been filed by the complainant with regard to a dispute relating to the field in question. So, Court below has rightly come to the conclusion that dispute between the parties are of civil nature. If at all any breach has been allegedly committed by the respondent Nos.2 to 5, appropriate remedies are available to the complainant before the Civil Court. But parties cannot be permitted to convert the civil dispute into criminal one as per their desire. When civil cases are pending in the Civil Court and interim orders are in operation, I do not find it necessary to interfere with the order passed by the court below as no illegality has been committed by the learned Judicial Magistrate (First Class), Gandhinagar in the order. Therefore, this petition is required to be rejected at this stage.

This Special Criminal Application is accordingly rejected.

(R.P.DHOLAKIA,J.)

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